



Comptroller General  
of the United States

Washington, D.C. 20548

C. Davis  
152217

357187

## Decision

**Matter of:** Skyline Industries, Inc.

**File:** B-257343

**Date:** July 18, 1994

### DECISION

Skyline Industries, Inc. protests the terms of request for quotations (RFQ) No. YPG94083000805 (-0805), issued by the Defense Logistics Agency, for the purchase of 384 seat bottom covers. Skyline protests that the solicitation lacks sufficient detail to allow offerors to prepare their quotes.

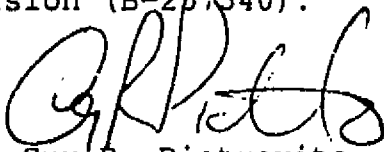
On March 21, the contracting officer orally solicited Skyline's quotation for the seat covers under RFQ -0805 and under RFQ No. YPG94045000958 (-0958), which was for an additional quantity of seat covers using the same specification and technical data package. Neither RFQ established a closing date for the receipt of quotations, but the contracting officer informed Skyline during her oral solicitation that the requirements were urgent and that quotations were expected as quickly as possible. On March 22, Skyline submitted to the agency, via facsimile, a letter which quoted a unit price of \$62.50 for the seat covers under RFQ -0958 and which simultaneously protested the RFQ's specifications. Skyline did not provide the agency either a written quote or a protest in response to RFQ -0805; instead, Skyline orally quoted the same unit price of \$62.50 for that procurement's seat covers. Skyline learned on May 17, through a government contract abstract service, that a lower-priced offeror had received the awards under both RFQs. That day, Skyline protested both RFQs' specifications to our Office.

We dismiss as untimely Skyline's protest of the specifications of RFQ -0805.

Our Bid Protest Regulations require that protests based upon alleged improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals shall be filed, either with our Office or with the procuring agency, prior to the closing date for receipt of initial

proposals.<sup>1</sup> 4 C.F.R. § 21.2(a) (1994). There is an exception to this timeliness rule where, as here, there was no formal or informal closing date for the receipt of proposals, and the time for receipt was practically simultaneous with the solicitation itself. See Ampex Corp., B-190529, Mar. 16, 1978, 78-1 CPD ¶ 212. Under such circumstances, the protester must file its protest of the specifications either with the contracting agency or with our Office within 10 working days of the solicitation. Id.

In this case, Skyline did not protest the terms of RFQ -0805 within 10 days of the March 21 oral solicitation, either to our Office or to the contracting agency, as was done with respect to RFQ -0958. While Skyline may have orally objected to RFQ -0805 when giving its telephonic quotation, Federal Acquisition Regulation § 33.101 imposes a requirement for written protests, which Skyline did for one RFQ, but not the other. See Thomasz/Shidler Investment Corp., B-250855, B-250855.2, Feb. 23, 1993, 93-1 CPD ¶ 170. Thus, Skyline did not effectively protest the terms of RFQ -0805 until it filed a protest with our Office on May 17. Since this protest was filed more than 10 days after the agency's oral solicitation, Skyline's protest of RFQ -0805 is untimely and must be dismissed. Our dismissal of Skyline's protest of RFQ -0805 does not affect its protest of RFQ -0958, which will be the subject of a future decision (B-257340).



Guy R. Pietrovito  
Acting Assistant General Counsel

---

<sup>1</sup>This requirement is applicable to an RFQ issued under small purchase procedures. Metropolitan Fed. Network, B-232096, Nov. 21, 198, 88-2 CPD ¶ 495.